

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

<b>MAXIE MCNABB,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CIVIL ACTION NO. 2:06cv664-MHT</b>
	)	
<b>SANDERS LEAD COMPANY, INC.,</b>	)	
	)	
<b>Defendant.</b>	)	

**DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR RECONSIDERATION  
OF PLAINTIFF'S MOTION FOR EXTENSION OF TIME**

COMES NOW, Defendant Sanders Lead Company, Inc., by and through the undersigned counsel of record, and does hereby respond to Plaintiff's Motion for Reconsideration of Plaintiff's Motion for Extension of Time. In response thereto, Defendant states the following:

1. Pursuant to the Court's scheduling order that was entered December 4<sup>th</sup>, 2006, "[a]ll discovery shall be completed on or before June 29, 2007".
2. That date was derived from the Report of the Parties' Planning Meeting filed with this Court.
3. The discovery deadline was agreed to last year by both the counsel for the Plaintiff and the counsel for the Defendant.
4. Plaintiff and his counsel have known or should have known about all the deadlines in the Court's order for many months now.
5. Until the time Defendant filed its' Motion for Summary Judgment, Plaintiff had only sent one set of interrogatories and requests for production, which Defendant responded to in the appropriate time.

6. In mid-April of 2007, Plaintiff's counsel contacted Defendant's counsel regarding dates to depose potential witnesses.
7. Defendant's counsel responded with dates in early to mid-May, yet no notices were sent by the Plaintiff or his counsel and nothing else was said about depositions until this week.
8. It is clear to the Defendant that this is the exact "eleventh hour" extension request this Court discussed in its' Uniform Scheduling Order.
9. There is nothing in Plaintiff's motion that would amount to "unforeseen and unavoidable circumstances beyond the control of the movant" that this Court requires in order for a request for an extension to be granted.
10. Every stated reason given by Plaintiff's counsel as to why he needs this extension is completely foreseeable and could have been avoided with proper planning and due diligence.

WHEREFORE, for the above stated reasons, the Defendant respectfully requests that this Court deny Plaintiff's Motion for Reconsideration of Plaintiff's Motion for Extension of Time.

Respectfully submitted this the 11<sup>th</sup> day of June, 2007.

s/ N.J. Cervera  
N.J. Cervera (CER001)

s/ Frank P. Ralph  
Frank P. Ralph (RAL002)

s/ Grady A. Reeves  
Grady A. Reeves (REE042)

s/ Matthew M. Baker  
Matthew M. Baker (BAK017)

OF COUNSEL:  
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**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing document to all persons listed below by CMF/Electronic Mail and/or by placing the same in the U.S. Mail, postage prepaid and properly addressed to:

Roderick T. Cooks, Esq.  
WINSTON COOKS, LLC  
The Penick Building  
319 17<sup>th</sup> Street North  
Birmingham, Alabama 35203

this the 11<sup>th</sup> day of June, 2007.

s/ N.J. Cervera  
\_\_\_\_\_  
OF COUNSEL